

FOX ROTHSCHILD LLP

BY: Colin Dougherty
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ATTORNEY FOR DEFENDANTS
JONATHAN SIEBERT AND
VISION SOLAR, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RICHARD ZELMA, *pro se*

Plaintiff,

v.

**JOHNATHAN SEIBERT, VISION SOLAR,
LLC, d/b/a/ VISION SOLAR NJ, LLC, d/b/a/
VISION SOLAR FL, LLC, d/b/a/ ENERGY-
XCHANGE, MARK GETTS, SOLAR
XCHANGE, Inc., and TELEMARKETER[S]
CALLING FROM (908) 275-3308; (800) 746-
7748; (818) 702-1899; and (609) 893-5078,**

Defendants.

CIVIL ACTION

C.A. NO.:

**Removed from the Superior Court of New
Jersey, Law Division, Bergen County, Docket
No. BER-L-7525-20**

NOTICE OF REMOVAL

**TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT
OF NEW JERSEY**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331 and 1446, Defendants, Jonathan Seibert and Vision Solar, LLC (collectively “Defendants”), are hereby removing the above-captioned matter that is currently pending in Superior Court of New Jersey, Bergen County, under civil docket no. BER-L-7525-20, to the United States District Court for the District of New Jersey. This removal is being filed with the consent and support of Mark Getts and Solar Exchange. In support of this notice, Defendants aver as follows:

1. On or about December 1, 2020, Plaintiff Richard Zelma (“Zelma”) commenced this action by filing a Complaint against Defendants in the Superior Court of New Jersey for Bergen

County under civil docket no. BER-L-7525-20. A true and correct copy of Plaintiff's Complaint is attached hereto as Exhibit 1.

2. On or about December 4, 2020, Plaintiff Richard Zelma, representing himself *pro se*, served Plaintiff's Complaint by email on the undersigned counsel who previously agreed to accept service on behalf of the Defendants.

3. This Court has original jurisdiction over this action based upon federal question under 28 U.S.C. § 1331. Section 1331 provides that federal "district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. Accordingly, this Court has federal question jurisdiction because Plaintiff asserts claims under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227, a federal statute enacted by Congress in 1991.

4. "The presence or absence of federal-question jurisdiction is governed by the 'well-pleaded complaint rule,' which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff's properly pleaded complaint. The rule makes the plaintiff the master of the claim; he or she may avoid federal jurisdiction by exclusive reliance on state law." *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987) (Brennan, J.) (internal citations omitted)

5. Counts I – III of Plaintiff's Complaint assert alleged violations of the TCPA. *See* Ex. 1, at pp. 15-18.

6. In *Mims v. Arrow Fin. Servs, LLC*, the Supreme Court of the United States unanimously held that federal district courts have federal question jurisdiction over alleged violations of the TCPA. 565 U.S. 368, 386–87 (2012) (Ginsburg, J.) ("Nothing in the text,

structure, purpose, or legislative history of the TCPA calls for displacement of the federal-question jurisdiction U.S. district courts ordinarily have under 28 U.S.C. § 1331.”).

7. Removal to this Court is proper under 28 U.S.C. § 1441 because this district and division embrace the place, Bergen County, New Jersey, where this action is pending.

8. Pursuant to 28 U.S.C. § 1446(a), Defendants have attached herewith and incorporate by reference, a copy of all process, pleadings, and orders in this matter. A true and correct copy of the electronic notices, summons, and track assignments for *Zelma v. Seibert et al.* Bergen County Case No. 007525-20, is attached hereto as Exhibit 2.

8. Defendants will provide immediate notice of this filing of this Notice of Removal to Plaintiff as required by 28 U.S.C. § 1446(d).

9. Defendants will also file a copy of this Notice with the Clerk of the Bergen County Courthouse for the Superior Court, Law Division as required by 28 U.S.C. § 1446(d), once a time-stamped copy of the removal papers are received and can be included in the materials submitted to the state court.

WHEREFORE, Defendants respectfully requests that this action presently pending in the Superior Court, Law Division for Bergen County, New Jersey be removed to the United States District Court for the District of New Jersey.

Dated: December 30, 2020

Respectfully submitted:

FOX ROTHSCHILD LLP

By: /s/ Colin Dougherty
Colin D. Dougherty
10 Sentry Parkway, Suite 200
P.O. Box 3001
Blue Bell, PA 19422
(610) 397-6500
Attorney for Defendants
Solar Exchange, LLC and Jonathan Seibert

CERTIFICATE OF SERVICE

I, Colin D. Dougherty, hereby certify that a true and correct copy of the foregoing Notice of Removal was served on December 30, 2020, via email and first-class mail, upon:

Richard Zelma, *pro se*
940 Blanch Avenue
Norwood, NJ 076488
tcpalaw@optonline.net

Dated: December 30, 2020

FOX ROTHSCHILD LLP

By: /s/ Colin D. Dougherty
Colin D. Dougherty

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RICHARD ZELMA, *pro se*

Plaintiff,

v.

**JOHNATHAN SEIBERT, VISION SOLAR,
LLC, d/b/a/ VISION SOLAR NJ, LLC, d/b/a/
VISION SOLAR FL, LLC, d/b/a/ ENERGY-
XCHANGE, MARK GETTS, SOLAR
XCHANGE, Inc., and TELEMARKETER[S]
CALLING FROM (908) 275-3308; (800) 746-
7748; (818) 702-1899; and (609) 893-5078,**

Defendants.

CIVIL ACTION

C.A. NO.:

NOTICE OF REMOVAL

TO: Richard Zelma
940 Blanch Avenue
Norwood, NJ 076488

PLEASE TAKE NOTICE that the Defendants Jonathan Seibert, Vision Solar, LLC, Vision Solar FL, LLC, Vision Solar NJ, LLC, Energy Exchange, Mark Getts, and Solar Xchange (collectively “Defendants”), has filed a Notice in the United States District Court for the District of New Jersey for the removal of the above-captioned action that is currently pending in the Superior Court, Law Division for Bergen County, New Jersey under civil docket number 007525-20. A true and correct copy of Defendant’s Notice of Removal is attached to this Notice and is hereby served upon you.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RICHARD ZELMA, *pro se*

Plaintiff,

v.

**JOHNATHAN SEIBERT, VISION SOLAR,
LLC, d/b/a/ VISION SOLAR NJ, LLC, d/b/a/
VISION SOLAR FL, LLC, d/b/a/ ENERGY-
XCHANGE, MARK GETTS, SOLAR
XCHANGE, Inc., and TELEMARKETER[S]
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7748; (818) 702-1899; and (609) 893-5078,**

Defendants.

CIVIL ACTION

C.A. NO.:

NOTICE OF REMOVAL

TO: THE CLERK OF COURT

I, Colin D. Dougherty, counsel for Defendants Vision Solar, LLC and Jonathan Seibert, hereby certify that a copy of the foregoing Notice of Removal will be filed with the Clerk of the Superior Court, Law Division for Bergen County, New Jersey immediately upon receipt of the certified copy from the United States District Court for the District of New Jersey.

Respectfully submitted:

FOX ROTHSCHILD LLP

By: /s/ Colin D. Dougherty
Colin D. Dougherty